DESCRIPTION OF TAX BILLS

RELATING TO

TAX FOR OIL SPILL LIABILITY TRUST FUND (S. 1066) AND DEDUCTION FOR OIL SPILL CLEANUP COSTS (S. 771)

Scheduled for a Hearing

Before the

SENATE COMMITTEE ON FINANCE

on June 21, 1989

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION

June 19, 1989

JCX-24-89

J862-38
S362-14

INTRODUCTION

The Senate Committee on Finance has scheduled a public hearing on June 21, 1989, on bills relating to (1) the petroleum tax for the Oil Spill Liability Trust Fund (S. 1066, introduced by Senator Chafee); and (2) the deductibility of oil spill cleanup costs (S. 771, introduced by Senator Reid).

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of present law and of the bills.

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[1] This document may be cited as follows: Joint Committee on Taxation, Description of Tax Bills Relating to Tax for Oil Spill Liability Trust Fund (S. 1066) and Deduction for Oil Spill Cleanup Costs (S. 771) (JCX-24-89), June 19, 1989.

Tax for Oil Spill Liability Trust Fund (S. 1066); Deduction for Oil Spill Cleanup Costs (S. 771)

Present Law

Oil Spill Liability Trust Fund petroleum tax

Present law (Code sec. 4611) establishes an excise tax of 1.3 cents per barrel on domestic crude oil and imported petroleum products (including imported crude oil) for the purpose of funding the Oil Spill Liability Trust Fund. However, the tax will not be imposed until qualified authorizing legislation[2] is enacted. Although the tax itself was enacted in 1986, qualified authorizing legislation has never been enacted. Consequently, this tax has never been collected. This tax expires on December 31, 1991.

The tax on domestic crude oil would be imposed on the operator of any United States refinery receiving such crude oil, while the tax on imported petroleum products would be imposed on the person entering the product into the United States for consumption, use, or warehousing. If domestic crude oil is used in, or exported from, the United States before imposition of the petroleum tax, the tax would be imposed on the user or exporter of the oil. The tax base would be the same as for the Superfund excise tax on crude oil and imported petroleum.

Trust fund expenditure purposes would include payment of removal costs of an oil spill and certain otherwise uncompensated claims. In addition, funds would be available to carry out specific provisions of other legislation relating to oil discharges and pollution. Trust fund amounts also would be available to pay all Federal Government administrative costs and contributions to the International Fund under the Comprehensive Oil Pollution Liability and Compensation Act.

The Oil Spill Liability Trust Fund excise tax is scheduled to expire on December 31, 1991. The tax will terminate earlier than that date if the Secretary of the Treasury estimates that $300 million or more will be credited to the Oil Spill Liability Trust Fund before January 1, 1992.

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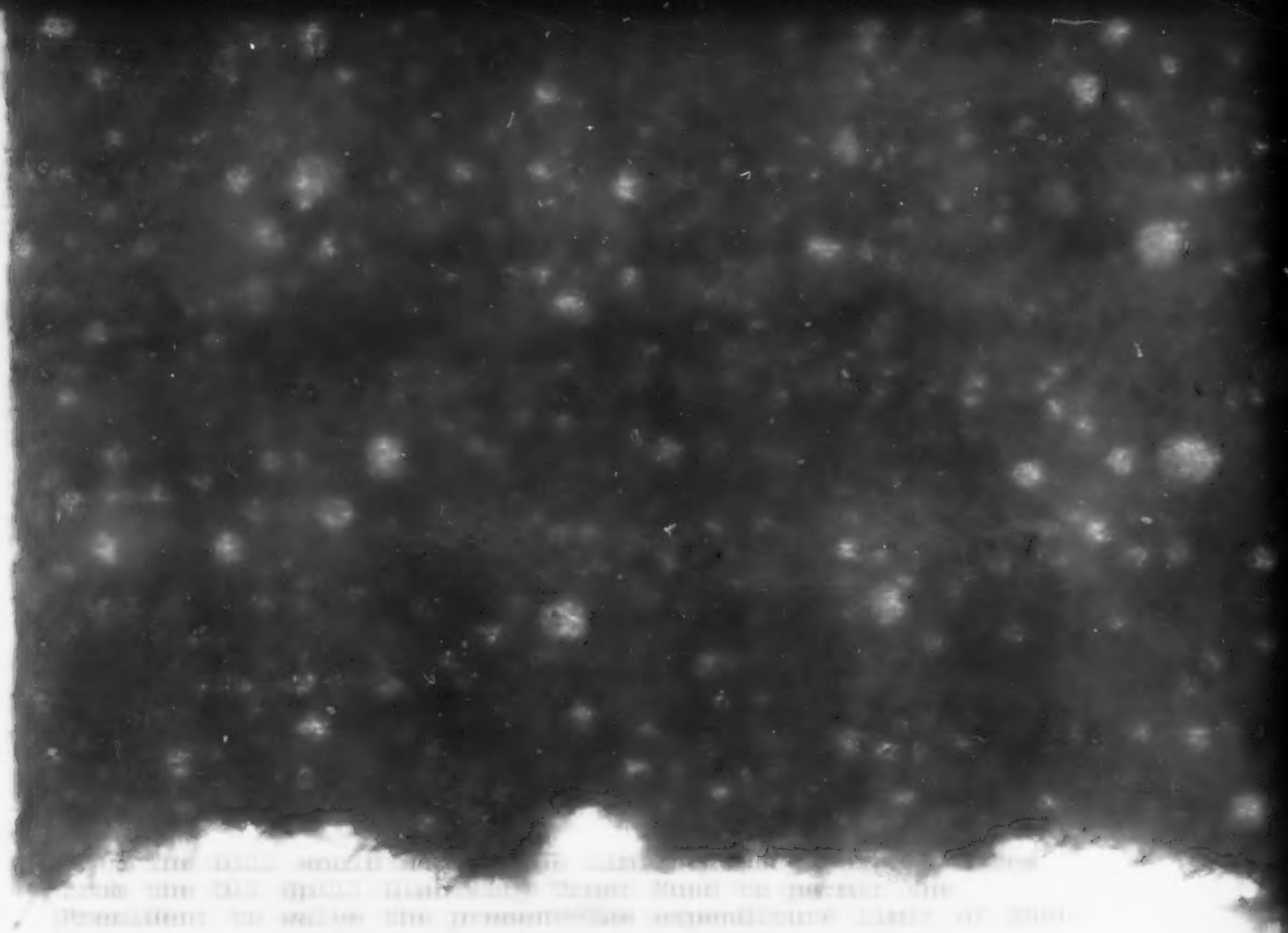
[2] The Code requires that the authorizing legislation be substantially identical to subtitle E of title VI, or subtitle D of title VIII, of H.R. 5300 of the 99th Congress as passed the House of Representatives.

Treatment of costs incurred in connection with the cleanup of oil and hazardous substances

Present law permits taxpayers to deduct the ordinary and necessary expenses of carrying on a trade or business. Thus, taxpayers who must clean up oil or hazardous substances may generally deduct the expenses of the cleanup. Present law does not require that the cleanup be done in accordance with the requirements of Federal environmental laws for the expenses to be deductible.

Present law does restrict taxpayers' ability to deduct certain specific types of payments. These restrictions were enacted because the expenditures are considered to violate public policy. For example, no deduction is permitted with respect to illegal bribes, kickbacks, fines, penalties, or treble damage payments under the antitrust laws. Thus, a fine or penalty imposed by a governmental unit because of the discharge of oil or hazardous substances is not deductible under present law.



S. 771 (Senator Reid): Oilspill Bill

In general, the bill would deny a deduction for expenses incurred by a taxpayer which result from the cleanup of oil or hazardous substances discharged by that person. In addition to the direct costs of cleanup, non-deductible expenses would include legal fees resulting from the discharge of oil or a hazardous substance; payments or restitution related to discharge of oil or a hazardous substance; and any costs required by Federal law or regulation.

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3 This bill was introduced at the request of the Administration.